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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,659	02/05/2001	Gregory J. Battersby	RUS013USQ	6335

7590

10/10/2002

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EXAMINER

RICCI, JOHN A

ART UNIT	PAPER NUMBER
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3712

10

DATE MAILED: 10/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/776,659Applicant(s)
Battersby et al.Examiner
John RicciArt Unit
3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Sep 25, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____
- Claim(s) objected to: _____
- Claim(s) rejected: _____
- Claim(s) withdrawn from consideration: _____
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: See attached letter.

John Ricci
JOHN RICCI
PRIMARY EXAMINER
ART UNIT 3712

Art Unit: 3712

It is not clear which claims are to be examined. The application originally included claims 1-30. In the preliminary amendment of Feb. 5, 2001, claims 1-30 were canceled, and claims 31-44 were added (these were misnumbered 39-52). In the amendment of 10/18/01, claims 32-40 were canceled, and new claim 44 was added (however, since there were already 44 claims pending, this new claim has been designated 45). On 5/29/02, an amendment was filed which presented a clean copy of claims 31, 41, & 43.

So, as of 5/29/02, the pending claims were 31, & 41-45.

The action of 8/27/02 erroneously included an action on claims 32-40, and did not address claim 45.

Claim 45 has now been examined and is allowable.

However, the amendment of 9/20/02 includes amendments to claims 32-35, which were canceled in the amendment of 10/18/01.

So applicant is requested to clarify which claims are to be examined.



John A. Ricci
Primary Examiner